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September 13, 2012

Mr. Phil Isenberg, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814
Via: deltaplancomment@deltacouncil.ca.gov

Re: September 5, 2012 Proposed Final Draft Delta Plan

Dear Chairman Isenberg and Members of the Delta Stewardship Council:

On behalf of the thirty-two member counties of the Regional Council of Rural Counties (RCRC), I appreciate the opportunity to submit comments on the Proposed Final Draft Delta Plan dated September 5, 2012. As you know, RCRC has submitted comments of each of the previous six drafts of the Delta Plan as well as on the PEIR. RCRC is also a member of the Ag-Urban Coalition (Coalition) and has been a signatory on several Coalition comment letters.

The Proposed Final Draft Delta Plan is a marked improvement over the previous six drafts. RCRC commends the Delta Stewardship Council (DSC) and DSC staff for the various improvements made to the document in response to comments and concerns raised.

RCRC will limit our comments today to one specific issue – WR P1, Reduce Reliance on the Delta and Improve Regional Self Reliance (short title). RCRC has previously commented on this specific policy, and does so again as we believe that the language of WR P1 continues to be confusing. RCRC last commented on this issue in our comment letter dated June 5, 2012.

According to the Office of Administrative Law website agency regulations are to be “clear, necessary, legally valid, and available to the public”. RCRC is concerned that if the Delta Plan itself lacks clarity that the regulations based upon the Delta Plan policies may likewise lack sufficient clarity.

As you know, Section 85021 reads as follows:

85021. The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

Section 85021 consists of two sentences. RCRC is of the opinion that the first sentence clearly refers to the Delta and the export areas that receive water from the "Delta", and that the second sentence clearly refers to all areas (the Delta and areas upstream and downstream of the Delta) that depend on water from the Delta "watershed". The Proposed Final Draft Delta Plan, however, continues to make no clear distinction between the two when discussing policies (regulatory) and recommendations (non-regulatory).

The crux of the confusion is the combining in WR P1 of the two separate requirements contained in the law i.e. reduced reliance on the Delta and improved regional self-reliance. The new Appendix P, *Demonstrating Consistency with the Delta Plan Regarding Reduced Reliance on the Delta and Improved Regional Self-Reliance*, attempts to provide some clarity, and that is much appreciated, but it still falls short.

RCRC is of the opinion that much of the confusion could be remedied by a review of the appropriate use of the terms "Delta" and "Delta watershed" throughout the Final Draft Delta Plan with this distinction in mind.

Appendix P, states that "...WR P1 is a potential regulatory policy only for urban and agricultural water suppliers that receive Delta water as the result of the export of water from, transferred through, or used in the Delta." RCRC suggests that this clear statement be included upfront in WR P1.

Additional clarity could also be achieved by separating the discussion of reduced reliance and improved regional self reliance in WR P1 as WR P1 is a policy (regulatory) and not a recommendation. One way this might be accomplished is to modify WR P1 as follows:

The policy of the State of California is to reduce reliance on the Delta in meeting future water supply needs. ~~and that each region that depends on water from the Delta watershed shall improve its regional self-reliance.~~ Success in achieving the statewide policy of reduced reliance on the Delta ~~and improving regional self-reliance~~ will be demonstrated through a significant reduction in the amount of water used, or in the percentage of water used, from the Delta. ~~watershed.~~

It is also the policy of the State of California that each region that depends on water from the Delta watershed shall improve its regional self reliance. The intent of WR P1 is to ensure that urban and agricultural water suppliers that receive Delta water as the result of the export of water from, transferred through, or used in the Delta are taking appropriate actions to contribute to the achievement of reduced reliance on the Delta by complying with the statutory requirements of SB X7 and other water management laws, and by implementing programs and projects that are locally cost effective and technologically feasible for urban and agricultural water suppliers to increase water use efficiency and conservation and diversify local water supply portfolios.

WR P1: Water shall not be exported from, transferred through or used in the Delta if (1) one or more water suppliers that would receive water as a result of the export, transfer or use have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance consistent with the three requirements stated below; (2) that failure has significantly caused the need for the export, transfer or use; and (3) the export, transfer or use would have a significant adverse environmental impact in the Delta.

For the purpose of Water Code section 85057.5 (a) (3), this policy covers a proposed action to export water from, transfer water through, or use water in the Delta.

Water suppliers that have done all of the following are contributing to reduced reliance on the Delta and improved regional self-reliance and are therefore consistent with WR P1:

Appendix P states that the DSC recommends that all urban and agricultural water suppliers not subject to the Delta Plan compliance requirements comply voluntarily with WR P1. It is, however, unclear to RCRC staff if the various WR recommendations (non-regulatory) contained in the Draft Final Delta Plan specifically include all the elements of WR P1 that the DSC recommends be voluntarily complied with.

In conclusion, RCRC appreciates the opportunity to comment on the Final Draft Delta Plan. Please contact me at (916) 447-4806 or kmannion@rcrcnet.org if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Mannion". The signature is fluid and cursive, with the first name "Kathy" and last name "Mannion" clearly distinguishable.

Kathy Mannion
Legislative Advocate

cc: Members, Delta Stewardship Council
Mr. Joe Grindstaff, Executive Officer